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*Attorneys for Defendant/Counterclaim  
Plaintiff AngioDynamics, Inc.*

Dated: November 20, 2023  
11173136 / 17409.00002

PUBLIC VERSION

Dated: November 30, 2023

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

C.R. BARD, INC. and BARD	)	
PERIPHERAL VASCULAR, INC.	)	
	)	
Plaintiff/Counterclaim-	)	
Defendants,	)	C.A. No. 20-1544-CFC-SRF
	)	
v.	)	<b>DEMAND FOR JURY TRIAL</b>
	)	
ANGIODYNAMICS, INC.,	)	<b>PUBLIC VERSION</b>
	)	
Defendant/Counterclaim-	)	
Plaintiff.	)	

**DECLARATION OF MICHAEL B. POWELL IN SUPPORT OF  
DEFENDANT'S SUMMARY JUDGMENT AND *DAUBERT* MOTIONS**

I, Michael B. Powell, hereby declare as follows:

1. I am Special Counsel with Cadwalader, Wickersham & Taft LLP. I am counsel for AngioDynamics, Inc. and have been admitted *pro hac vice* in the above-captioned litigation. I make the statements in this Declaration from personal knowledge and if called to testify, could do so competently.

2. Included in AngioDynamics's appendix as Exhibit 1 is a true and correct copy of U.S. Patent No. 7,785,302.

3. Included in AngioDynamics's appendix as Exhibit 2 is a true and correct copy of U.S. Patent No. 7,959,615.

4. Included in AngioDynamics's appendix as Exhibit 3 is a true and correct copy of U.S. Patent No. 7,947,022.

5. Included in AngioDynamics's appendix as Exhibit 4 is a true and correct copy of the Asserted Claims of the '302 Patent.

6. Included in AngioDynamics's appendix as Exhibit 5 is a true and correct copy of the Asserted Claims of the '022 Patent.

7. Included in AngioDynamics's appendix as Exhibit 6 is a true and correct copy of the Asserted Claims of the '615 Patent.

8. Included in AngioDynamics's appendix as Exhibit 7 is a true and correct copy of Excerpts of the File History for U.S. Patent No. 7,785,302.

9. Included in AngioDynamics's appendix as Exhibit 8 is a true and correct copy of Excerpts of the File History for U.S. Patent No. 7,947,022.

10. Included in AngioDynamics's appendix as Exhibit 9 is a true and correct copy of the Markman Hearing Transcript, dated July 19, 2023.

11. Exhibit 10 in AngioDynamics's appendix has been intentionally left blank.

12. Included in AngioDynamics's appendix as Exhibit 11 is a true and correct copy of the Deposition Transcript of Robert L. Vogelzang, M.D., dated Oct. 25, 2023.

13. Included in AngioDynamics's appendix as Exhibit 12 is a true and correct copy of the Deposition Transcript of Catharine M. Lawton, dated Nov. 2, 2023.

14. Included in AngioDynamics's appendix as Exhibit 13 is a true and correct copy of the Deposition Transcript of John M. Collins, Ph.D., dated Nov. 1, 2023.

15. Included in AngioDynamics's appendix as Exhibit 14 is a true and correct copy of the Deposition Transcript of Matthew Johnson, M.D., dated Oct. 29, 2023.

16. Included in AngioDynamics's appendix as Exhibit 15 is a true and correct copy of the Declaration of Ronald J. Solar Offered In Support Of Defendant's Motion For Summary Judgment And Daubert Motions Regarding His Opening, Rebuttal, And Reply Expert Reports.

17. Included in AngioDynamics's appendix as Exhibit 16 is a true and correct copy of the Declaration of Robert L. Vogelzang Offered In Support Of Defendant's Motion For Summary Judgment And Daubert Motions Regarding His Opening, Rebuttal, And Reply Expert Reports.

18. Included in AngioDynamics's appendix as Exhibit 17 is a true and correct copy of Excerpts of the (Corrected) Opening Expert Report of John M. Collins, Ph.D.

19. Included in AngioDynamics's appendix as Exhibit 18 is a true and correct copy of Excerpts of the (Corrected) Rebuttal Expert Report of John M. Collins, Ph.D.

20. Exhibit 19 in AngioDynamics's appendix has been intentionally left blank.

21. Included in AngioDynamics's appendix as Exhibit 20 is a true and correct copy of Excerpts of the Opening Expert Report of Matthew S. Johnson, M.D.

22. Included in AngioDynamics's appendix as Exhibit 21 is a true and correct copy of Excerpts of the (Corrected) Rebuttal Expert Report of Matthew S. Johnson, M.D.

23. Included in AngioDynamics's appendix as Exhibit 22 is a true and correct copy of Excerpts of the Reply Expert Report of Matthew S. Johnson, M.D.

24. Included in AngioDynamics's appendix as Exhibit 23 is a true and correct copy of Excerpts of the (Corrected) Opening Expert Report of Catharine M. Lawton.

25. Included in AngioDynamics's appendix as Exhibit 24 is a true and correct copy of Excerpts of Schedules to the (Corrected) Opening Expert Report of Catharine M. Lawton.

26. Included in AngioDynamics's appendix as Exhibit 25 is a true and correct copy of Excerpts of the Rebuttal Expert Report of Catharine M. Lawton.

27. Included in AngioDynamics's appendix as Exhibit 26 is a true and correct copy of Excerpts of the Reply Expert Report of Catharine M. Lawton.

28. Included in AngioDynamics's appendix as Exhibit 27 is a true and correct copy of Excerpts of the Deposition Transcript of Kelly Powers, dated June 8, 2017.

29. Included in AngioDynamics's appendix as Exhibit 28 is a true and correct copy of Excerpts of the Deposition Transcript of Kelly Powers, dated August 22, 2023.

30. Included in AngioDynamics's appendix as Exhibit 29 is a true and correct copy of Excerpts of the Deposition Transcript of Kelly Powers, dated August 23, 2023.

31. Included in AngioDynamics's appendix as Exhibit 30 is a true and correct copy of Excerpts of the Deposition Transcript of Kenneth Eliassen, dated August 15, 2017.

32. Included in AngioDynamics's appendix as Exhibit 31 is a true and correct copy of Excerpts of the Deposition Transcript of Kenneth Eliassen, dated June 21, 2017.

33. Included in AngioDynamics's appendix as Exhibit 32 is a true and correct copy of Excerpts of the Deposition Transcript of Kevin Sheetz, dated June 5, 2017.

34. Included in AngioDynamics's appendix as Exhibit 33 is a true and correct copy of Excerpts of the Deposition Transcript of Susan Scott, dated August 11, 2023.

35. Included in AngioDynamics's appendix as Exhibit 34 is a true and correct copy of Excerpts of the Deposition Transcript of Corey Neureuther, dated August 16, 2023.

36. Included in AngioDynamics's appendix as Exhibit 35 is a true and correct copy of Excerpts of the Deposition Transcript of Joseph Panniello, Jr., dated August 17, 2023.

37. Included in AngioDynamics's appendix as Exhibit 36 is a true and correct copy of Excerpts of the Deposition Transcript of David Cise, dated Oct. 10, 2023.

38. Included in AngioDynamics's appendix as Exhibit 37 is a true and correct copy of Excerpts of the Deposition Transcript of Anthony David Smith, dated August 25, 2023.

39. Included in AngioDynamics's appendix as Exhibit 38 is a true and correct copy of Excerpts of the Deposition Transcript of David Blaber, dated August 9, 2023.

40. Included in AngioDynamics's appendix as Exhibit 39 is a true and correct copy of Excerpts of the Deposition Transcript of Dwight Hibdon, dated June 23, 2017.

41. Included in AngioDynamics's appendix as Exhibit 40 is a true and correct copy of Excerpts of the Deposition Transcript of Christopher Carson, dated August 3, 2023.

42. Included in AngioDynamics's appendix as Exhibit 41 is a true and correct copy of Excerpts of the Deposition Transcript of Anthony David Smith, dated May 24, 2017.

43. Included in AngioDynamics's appendix as Exhibit 42 is a true and correct copy of Excerpts of the Deposition Transcript of Matthew Draper, dated July 26, 2023.

44. Included in AngioDynamics's appendix as Exhibit 43 is a true and correct copy of Excerpts of the Deposition Transcript of John Evans, dated July 11, 2017.



45. Included in AngioDynamics's appendix as Exhibit 44 is a true and correct copy of Excerpts of the Deposition Transcript of James Kenny, dated June 7, 2017.

46. Included in AngioDynamics's appendix as Exhibit 45 is a true and correct copy of Excerpts of the Deposition Transcript of Chad Campbell, dated August 2, 2023.

47. Included in AngioDynamics's appendix as Exhibit 46 is a true and correct copy of Excerpts of the Deposition Transcript of Jason Miles, dated May 27, 2021 from C.R. Bard, Inc. et. al v. Med. Components, Inc., C.A. No. 2:12-cv-32-RJS-DAO.

48. Included in AngioDynamics's appendix as Exhibit 47 is a true and correct copy of U.S. Patent No. 8,475,417.

49. Included in AngioDynamics's appendix as Exhibit 48 is a true and correct copy of a Memo on STD Approval for Manufacture of Titanium PowerPorts (BARD\_AD\_0033623) [-218 Case DX-26].

50. Included in AngioDynamics's appendix as Exhibit 49 is a true and correct copy of a Drawing Comparison for the PowerPort vs. the Adult Titanium Predicate Device P57279.000/R57279.000 (BARD\_AD\_0196041).

51. Included in AngioDynamics's appendix as Exhibit 50 is a true and correct copy of a PowerPort Product Opportunity Appraisal (BARD\_AD\_1403386) [-218 Case PX-246].

52. Included in AngioDynamics's appendix as Exhibit 51 is a true and correct copy of a PowerPort Design Input Summary Report (BARD\_MEDCOMP\_01013287).

53. Included in AngioDynamics's appendix as Exhibit 52 is a true and correct copy of a PowerPort FDA 510(k) Review Notice (BARD\_AD\_0107619) [-218 Case PX-69].

54. Exhibit 53 in AngioDynamics's appendix has been intentionally left blank.

55. Included in AngioDynamics's appendix as Exhibit 54 is a true and correct copy of PowerPort E Port Qualification Test Report (BARD\_AD\_0028341) [-218 Case PX-458].

56. Included in AngioDynamics's appendix as Exhibit 55 is a true and correct copy of PowerPort Qualification Test Report (BARD\_AD\_0031188) [-218 Case PX-460].

57. Included in AngioDynamics's appendix as Exhibit 56 is a true and correct copy of Arendi SARL v. LG Elecs. Inc., C.A. No. 12-1595, slip op. (D. Del. redacted version Apr. 8, 2022), D.I. 358.

58. Included in AngioDynamics's appendix as Exhibit 57 is a true and correct copy of Herts et al, Power Injection of Contrast Media Using Central Venous Catheters: Feasibility, Safety, and Efficacy, 2001 (BARD\_AD\_1627725) [-218 Case PX-95].

59. Included in AngioDynamics's appendix as Exhibit 58 is a true and correct copy of Power Injection Testing of Ports 10/18/23 by Robert Vogelzang M.D. (AD\_BARD\_ONE\_00038317).

60. Included in AngioDynamics's appendix as Exhibit 59 is a true and correct copy of Image of Bard Adult Titanium Port, 8 Fr Chronoflex Catheter Tested by Robert Vogelzang M.D. on 10/18/2023 (AD\_BARD\_ONE\_00038321).

61. Included in AngioDynamics's appendix as Exhibit 60 is a true and correct copy of Power Injection Testing of Ports 10/20/23 by Robert Vogelzang M.D. (AD\_BARD\_ONE\_00038322).

62. Included in AngioDynamics's appendix as Exhibit 61 is a true and correct copy of Power Injection Testing of Ports 10/20/23 by Robert Vogelzang M.D. (AD\_BARD\_ONE\_00038323).

63. Included in AngioDynamics's appendix as Exhibit 62 is a true and correct copy of Purchase Requisition for Titanium PowerPort Development, dated Jan. 18, 2006 (BARD\_AD\_1271038).

64. Included in AngioDynamics's appendix as Exhibit 63 is a true and correct copy of "Rigsby et al, Safety and Efficacy of Pressure Limited Power Injection of Iodinated Contrast Medium Through Central Lines in Children, 2006 (BARD\_AD\_1610408)".

65. Included in AngioDynamics's appendix as Exhibit 64 is a true and correct copy of an Email from Dwight Hibdon Sent 1/23/2006 RE: Test Materials (BARD\_AD\_0967655).

66. Included in AngioDynamics's appendix as Exhibit 65 is a true and correct copy of Statement of Uncontested Facts Requiring No Proof, C.A. No. 1:15-cv-00218, D.I. 535-1.

67. Included in AngioDynamics's appendix as Exhibit 66 is a true and correct copy of an X-Ray of Adult Titanium Port, Marked as Exhibit 14 from Deposition of John M. Collins, Ph.D. (AD\_BARD\_ONE\_00038393).

68. Included in AngioDynamics's appendix as Exhibit 67 is a true and correct copy of Bard Access Systems 1999 Ports Brochure (DELANGIO\_00514663).

69. Included in AngioDynamics's appendix as Exhibit 68 is a true and correct copy of Bard Access Systems 2003 Ports Brochure (BARD\_AD\_0301264) [-218 Case DX-77].

70. Included in AngioDynamics's appendix as Exhibit 69 is a true and correct copy of Transcript of Jury Trial, C.R. Bard Inc. et al. v. AngioDynamics, Inc., C.A. No. 1:15-cv-00218, dated Mar. 4, 2019 (-218 D.I. 443).

71. Included in AngioDynamics's appendix as Exhibit 70 is a true and correct copy of Transcript of Jury Trial, C.R. Bard Inc. et al. v. AngioDynamics, Inc., C.A. No. 1:15-cv-00218, dated Mar. 5, 2019 (-218 D.I. 444).

72. Exhibit 71 in AngioDynamics's appendix has been intentionally left blank.

73. Included in AngioDynamics's appendix as Exhibit 72 is a true and correct copy of Transcript of Jury Trial, C.R. Bard Inc. et al. v. AngioDynamics, Inc., C.A. No. 1:15-cv-00218, dated Nov. 16, 2022 (-218 D.I. 581).

74. Included in AngioDynamics's appendix as Exhibit 73 is a true and correct copy of Transcript of Jury Trial, C.R. Bard Inc. et al. v. AngioDynamics, Inc., C.A. No. 1:15-cv-00218, dated Nov. 17, 2022 (-218 D.I. 582).

75. Included in AngioDynamics's appendix as Exhibit 74 is a true and correct copy of Transcript of Jury Trial, C.R. Bard Inc. et al. v.

AngioDynamics, Inc., C.A. No. 1:15-cv-00218, dated Nov. 18, 2022 (-218 D.I. 583).

76. Included in AngioDynamics's appendix as Exhibit 75 is a true and correct copy of Transcript of Jury Trial, C.R. Bard Inc. et al. v. AngioDynamics, Inc., C.A. No. 1:15-cv-00218, dated Nov. 19, 2022 (-218 D.I. 584).

77. Exhibit 76 in AngioDynamics's appendix has been intentionally left blank.

78. Exhibit 77 in AngioDynamics's appendix has been intentionally left blank.

79. Included in AngioDynamics's appendix as Exhibit 78 is a true and correct copy of a Distribution Agreement between Bard Shannon Limited and C.R. Bard, Inc., dated Jan. 1, 2018 (BARD\_MED\_PORT1\_0213336).

80. Included in AngioDynamics's appendix as Exhibit 79 is a true and correct copy of Bard Shannon Limited, Company House, Statement of details of parent law and other information from an overseas company (AD\_BARD\_ONE\_00038173).

81. Included in AngioDynamics's appendix as Exhibit 80 is a true and correct copy of an AngioDynamics 2017 Bioflo Brochure Marked as Exhibit 4 in Deposition of Chad Campbell, August 2, 2023.

82. Included in AngioDynamics's appendix as Exhibit 81 is a true and correct copy of Bard 2013 NPD Reviews, Enhancing the Business Focus, Fall 2013 (BARD\_AD\_1598637).

83. Exhibit 82 in AngioDynamics's appendix has been intentionally left blank.

84. Included in AngioDynamics's appendix as Exhibit 83 is a true and correct copy of Memorandum, TTR Summary for October 5 & 6, 2004 (BARD\_AD\_0020069).

85. Included in AngioDynamics's appendix as Exhibit 84 is a true and correct copy of John T. Carlo et al., "A prospective randomized trial demonstrating valved implantable ports have fewer complications and lower overall cost than nonvalved implantable ports", 2004 (BARD\_AD\_1297993).

86. Included in AngioDynamics's appendix as Exhibit 85 is a true and correct copy of Millennium Research Group, US Markets for Vascular Access Devices 2011 (BARD\_AD\_0335266).

87. Included in AngioDynamics's appendix as Exhibit 86 is a true and correct copy of Port Materials Summary 6/20/2011 Marked as Exhibit 36 in Deposition of Kelly Powers, August 23, 2023 (BARD\_AD\_1271011).

88. Included in AngioDynamics's appendix as Exhibit 87 is a true and correct copy of ATP schematic (BARD\_AD\_0826250).

89. Included in AngioDynamics's appendix as Exhibit 88 is a true and correct copy of Photographs of ATP Marked as Exhibit 15 in Deposition of Kelly Powers, August 22, 2023.

90. Included in AngioDynamics's appendix as Exhibit 89 is a true and correct copy of Photograph of ATP (back engraving).

91. Included in AngioDynamics's appendix as Exhibit 90 is a true and correct copy of an Email from Susan Scott on 3/20/2006 RE: PowerPort Question & Comments (BARD\_AD\_0972946).

92. Included in AngioDynamics's appendix as Exhibit 91 is a true and correct copy of Power Port Feasibility Test Report (BARD\_MEDCOMP\_00220993).

93. Included in AngioDynamics's appendix as Exhibit 92 is a true and correct copy of Power Port Qualification Protocol (BARD\_AD\_0061896).



94. Included in AngioDynamics's appendix as Exhibit 93 is a true and correct copy of Power Port Qualification Protocol (BARD\_AD\_0028073).

95. Included in AngioDynamics's appendix as Exhibit 94 is a true and correct copy of Power Port Equivalency to the Titanium Adult Port Protocol (BARD\_AD\_0052765) [-218 Case DX-41].

96. Included in AngioDynamics's appendix as Exhibit 95 is a true and correct copy of Power Port Qualification Equivalency Testing Report (BARD\_AD\_0029452) [-218 Case PX-459].

97. Included in AngioDynamics's appendix as Exhibit 96 is a true and correct copy of Power Port Concept Design Review Comments (BARD\_MEDCOMP\_00839644).

98. Included in AngioDynamics's appendix as Exhibit 97 is a true and correct copy of X-Ray of Bard Power Port (AD\_BARD\_ONE\_00038286).

99. Included in AngioDynamics's appendix as Exhibit 98 is a true and correct copy of Trim-Port Implantable Venous Access System 510k K903364 (DELANGIO\_00073308) [-218 Case PX-625].

100. Included in AngioDynamics's appendix as Exhibit 99 is a true and correct copy of Smith Medical's PAC 510(K) K932095 (SM-ANGIO-SUBP\_0001202).

101. Included in AngioDynamics's appendix as Exhibit 100 is a true and correct copy of a PAC brochure (SM-ANGIO-SUBP\_0001953).

102. Included in AngioDynamics's appendix as Exhibit 101 is a true and correct copy of a Photograph of PAC Dual (AD\_BARD\_ONE\_00000179).

103. Included in AngioDynamics's appendix as Exhibit 102 is a true and correct copy of a Photograph of PAC Dual (AD\_BARD\_ONE\_00000180)

104. Included in AngioDynamics's appendix as Exhibit 103 is a true and correct copy of a Photograph of PAC Dual back (AD\_BARD\_ONE\_00000177).

105. Included in AngioDynamics's appendix as Exhibit 104 is a true and correct copy of an Email from Boswell RE: Smith Medical and attaching CATH and Port, RIPPER PLUS smiths, GRIPPER PLUS POWER, proven performance you, Smiths 510K K070116, and Smith Power Port 510k Notification (BARD\_AD\_1664763).

106. Included in AngioDynamics's appendix as Exhibit 105 is a true and correct copy of Power Injectable Port CT Technologist Survey Fall 2004 (BARD\_AD\_0012813) [-218 Case DX-11].

107. Included in AngioDynamics's appendix as Exhibit 106 is a true and correct copy of Qualification Report, Power Injection of PAC and PAC II Portal Access Systems and Gripper Plus (SM-ANGIO-SUBP\_0002206).

108. Included in AngioDynamics's appendix as Exhibit 107 is a true and correct copy of PAC and PAC II 510(k) K070116 (SM-ANGIO-SUBP\_0001193).

109. Included in AngioDynamics's appendix as Exhibit 108 is a true and correct copy of a Memo from K. Finberg RE: Rationale for Non-Applicable Items for Project #11119 PASPort and 7Fr DL (SM-ANGIO-SUBP\_0002259).

110. Included in AngioDynamics's appendix as Exhibit 109 is a true and correct copy of a Memo from K. Finberg RE: Rationale for Non-Applicable Items for Project #11119 (SM-ANGIO-SUBP\_0002256).

111. Included in AngioDynamics's appendix as Exhibit 110 is a true and correct copy of a Photograph of PAC Dual (AD\_BARD\_ONE\_00038313).

112. Included in AngioDynamics's appendix as Exhibit 111 is a true and correct copy of Carlson et al., Safety Considerations in the Power Injection of Contrast Media Via Central Venous Catheters during Computed Tomographic Examinations, May 1992 [-218 Case PX-133].

113. Included in AngioDynamics's appendix as Exhibit 112 is a true and correct copy of a Declaration of Stephen J. Tallarida vs. USP No. 8,257,325 [-218 Case DX-322].

114. Included in AngioDynamics's appendix as Exhibit 113 is a true and correct copy of a PAC II Port Testing Summary (SM\_ANGIO\_SUBP\_0002001).

115. Included in AngioDynamics's appendix as Exhibit 114 is a true and correct copy of Photographs of PAC Dual Marked as Exhibit 17 from Deposition of John M. Collins, Ph.D.

116. Included in AngioDynamics's appendix as Exhibit 115 is a true and correct copy of PAC Dual-lumen Instructions for Use, issued March 1996 (AD\_BARD\_ONE\_00000010).

117. Included in AngioDynamics's appendix as Exhibit 116 is a true and correct copy of ATP Septum Schematic (BARD\_MEDCOMP\_01025965).

118. Included in AngioDynamics's appendix as Exhibit 117 is a true and correct copy of Photographs and X-Ray Images of Vortex MP, ATP (ANG\_SJ\_000176).

119. Included in AngioDynamics's appendix as Exhibit 118 is a true and correct copy of Smiths Medical 510(K) K070116 (SM-ANGIO-SUBP\_0001431).

I declare that the foregoing is true and correct to the best of my knowledge and subject to the laws of perjury of the United States.

Dated: November 20, 2023

/s/ Michael B. Powell  
Michael B. Powell